

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 399

HOUSE BILL NO. 1905

By Representatives Curtiss, Shepard

Substituted for: Senate Bill No. 2079

By Senators Ketron, Jackson, Black

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 12; Title 13; Title 41; Title 42; Title 49; Title 64 and Title 68, relative to reverse auctions by local governmental units.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 3, Part 10, is amended by adding the following language as a new, appropriately designated section:

Section 12-3-10____,

(a)

(1) As used in this section, "local governmental unit" means and includes a county, city, municipality, special district, utility district, school district, authority, or any other entity created or appointed by a local governmental unit of the state.

(2) For a purchase of goods or services, any local governmental unit may purchase goods or services through a competitive reverse auction process that allows offerors to bid on specified goods or services electronically and adjust bid pricing during a specified time period.

(3) The provisions of this act shall not apply to:

(A) Construction services, other than those relating to maintenance, repairs and renovations the cost of which is less than twenty-five thousand dollars (\$25,000);

(B) Architectural or engineering services;

(C) New or unused motor vehicles, unless such motor vehicles are manufactured for a special purpose. "Manufactured for a special purpose" includes, but is not limited to: school buses, garbage trucks, fire trucks or ambulances; or

(D) New or unused construction equipment.

(b) The purchasing agent of the local governmental unit shall solicit bids by public notice inserted at least once in a newspaper of countywide circulation five (5) days prior to the first day bids can be submitted. If the county in question has no newspaper with countywide circulation, the purchasing agent shall post notices on a public bulletin board in the county courthouse. The purchasing agent may also solicit bid requests by mail to prospective bidders or by distributing invitations to bid electronically via email or by posting on the entity's website. All invitations to bid shall include a general description of the goods or services to be purchased and information related to the time and place of opening bids.

(c) In order to assure the fullest possible participation of small business and minority owned businesses, a local governmental unit shall provide a mechanism either through the local governmental unit itself or through a third party, if a third party source is utilized to conduct the reverse auction, to facilitate participation of small and minority owned businesses in a reverse auction.

(d) All bid responses received shall be made available publicly at the time and place identified in the invitation to bid. An award shall be made to the offeror determined to be the lowest responsible and responsive bidder at the close of the specified bid period. Each bid, with the name and address of the bidder, shall be recorded and the names of the bidders, the amounts of their bids, and the name of the successful bidder shall, after the award, be open to public inspection. All bids should be preserved for a period of five (5) years.

(e) Prior to the initial utilization of a reverse auction, the local governmental unit shall file a plan with the comptroller of the treasury. The plan shall indicate the technology to be utilized, whether a third party source will be utilized to conduct a reverse auction or auctions, a description of policies and procedures related to the implementation of the reverse auction process, and documentation of internal controls that will ensure the integrity of the process. Furthermore, the plan shall indicate whether such a process will be implemented within the existing operating resources of the local governmental unit or indicate prior approval of the governing body of the local governmental unit if additional operating resources are needed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 26, 2009

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KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

A handwritten signature in black ink, reading "Ron Ramsey", written over a horizontal line.

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 9th day of June 2009

A handwritten signature in black ink, reading "Phil Bredeesen", written over a horizontal line.

PHIL BREDESEN, GOVERNOR